

**CALIFORNIA COASTAL COMMISSION**

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Staff: AJP-LB  
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Hearing Date: 8/8-11/00

**STAFF REPORT:**  
**DE NOVO & REGULAR CALENDAR**

**APPLICATION NUMBER:** A-5-PDR-00-077/ 5-99-329

**APPLICANT:** Catellus Residential Group

**AGENT:** Latham & Watkins

**PROJECT LOCATION:** 7501 80<sup>th</sup> Street, Westchester-Playa del Rey, City of Los Angeles

**PROJECT DESCRIPTION:** Resubdivision and merger of 12 lots into 6 lots within and partially within the Coastal Zone and construction of a proposed 70-foot wide entrance road off Lincoln Boulevard, partially within the coastal zone; construction of a 6-foot wide public trail along the bluff within a 10-foot wide easement partially within the coastal zone; removal of approximately .39 acres coastal sage scrub; and restoration of 10.46 acres of bluff face including revegetation of 8.16 acres with coastal sage scrub; construction of five below-grade soldier pile walls; construction of a .32 acre public view park; dedication of open space; removal of check dams within the large ravine (Hastings Canyon); and on-site and off-site infrastructure improvements associated with a 32 acre, 114-single family lot, subdivision that is outside of the Commission's jurisdiction except for the bluff face and lower portion of ravine (Hastings Canyon). Total grading within the coastal zone will be approximately 64,640 cubic yards of cut. The portion of the project site within the coastal zone consists of 11.95 acres. The applicant is also proposing to dedicate as open space 15 off-site lots (approximately 1.9 acres) along Cabora Drive.

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**Summary of Staff Recommendation**

The proposed project raises Coastal Act issues regarding grading, landform alteration and visual impacts. To mitigate the impacts, staff recommends approval of the proposed project with special conditions regarding the elimination of the access road (Street "A"), that is located on the face of the bluff, and all associated grading; dedication of open space and public trail, landscaping and fuel modification, grading, future improvements, and assumption of risk.

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**Staff Note:**

The proposed development is within the coastal zone area of the City of Los Angeles, which has been designated in the City's permit program as the Dual Permit Jurisdiction area. Pursuant to Section 30601 of the Coastal Act and Section 13307 of the California Code of regulations, any development located in the Dual Permit Jurisdiction which receives a Local Coastal Development Permit must also obtain a permit from the Coastal Commission.

The City's approval of the Local Coastal Development Permit (#99-016) has been appealed to the Commission. In order to minimize duplication and unnecessary delays, Commission staff has combined the de novo appeal and Coastal Development Permit application into one staff report and one Commission hearing. However, Commission approval, modification, or disapproval of this project will require separate actions on the appeal and Coastal Development Permit.

The proposed project was before the Commission in August 1999 (A-5-PDR-99-130/5-99-151). The project was similar to the currently proposed project but included a total of 83,935 cubic yards of total grading, the filling of the 0.8 acre portion of Hastings Canyon within the Coastal Zone, and the construction of retaining walls within the erosion gullies along the bluff face. After a public hearing and testimony, the Commission denied the project due to excessive grading, landform alternation and visual impacts within the coastal zone. The applicant subsequently revised the project by reducing the amount of grading, by eliminating filling of the portion of Hastings Canyon within the Coastal Zone, and removed the retaining walls within the gullies. The applicant resubmitted the revised project to the City of Los Angeles for a local coastal development permit (#99-016) and then resubmitted a new coastal development permit application to the Commission's Long Beach office.

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**STAFF RECOMMENDATION:**

Staff recommends that the commission adopt the following resolutions:

**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION  
FOR A-5-PPL-00-077:**

Staff recommends that the Commission make the following motion and adopt the following resolution:

**MOTION:** *I move that the Commission approve Coastal Development Permit #A-5-PPL-00-077 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

**II. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR 5-99-329:**

Staff recommends that the Commission make the following motion and adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development **Permit #5-99-329** pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the

provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

### **III. STANDARD CONDITIONS:**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **IV. SPECIAL CONDITIONS**

1. Revised Tentative Tract Map
  - A. Prior to issuance of the coastal development permit, the applicant shall submit, for review and approval of the Executive Director, a revised Tentative Tract Map indicating:
    - a) the elimination of Street "A" and view park and all associated grading, as depicted in Exhibits No. 3 and 9;
    - b) the elimination of the vista point and all associated grading, located in the northwest portion of the property, as depicted in Exhibits No. 3 and 9;

c) the provision of an access point for accessing the bluff top public trail in the northeast portion of the site, as generally depicted in Exhibit No. 18.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Open Space Deed Restriction

A. No development as defined in Section 30106 of the Coastal Act shall occur in Lots No. 115, 116, and 121 (referenced below as "open space lots"), as shown on revised Tentative Tract Map No. 51122 except for:

(a) Vegetation removal for fire management consistent with plans approved by the Executive Director (b) landscaping with native vegetation in accordance with the approved landscaping plan (c) removal of non-native vegetation; (d) public trail and view park construction and maintenance; (e) grading and drainage improvements in accordance with revised Tract Map No. 51122; and (f) construction of buried soldier pile erosion control systems in accordance with the letter (including plans submitted therewith) submitted by the Project Engineer (RBF) dated May 3, 2000.

B. Concurrently with the recordation of Tract Map No. 51122 The applicant shall execute and record over the above-described open space Lots a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space Lots. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission approved amendment to this coastal development permit.

3. Responsibility for Maintenance of Open Space Lots and Common Areas

A. Consistent with the applicant's proposed project description, the applicant and any successors in interest shall maintain the three open space Lots in the Coastal Zone and all common improvements including, but not limited to, the public trail, bluff face and planting areas, reflected in revised Tentative Tract Map No. 51122.

B. Concurrently with the recordation of Tract Map No. 51122, the applicant shall execute and record over all of the above-identified Lots a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions. The deed

restrictions shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission approved amendment to this coastal development permit.

4. Trail Lateral Access

A. Concurrently with the recordation of Tract Map No. 51122, and in order to implement the applicant's proposal, the applicant shall submit to the Executive Director for review and approval evidence that the applicant has executed and recorded a dedication to the City of Los Angeles of an easement for lateral public access and passive recreational use along the bluff top in accordance with the approved coastal development permit. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed.

B. Any future development that is proposed to be located either in whole or in part within the area described in the recorded offer of dedication shall require a Commission approved amendment to this coastal development permit. This requirement shall be reflected in the provisions of the offer.

5. Future Development Deed Restriction

A. This permit is only for the development described Coastal Development Permit No. 5-99-329. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (b) shall not apply to any lot the Coastal Zone in revised Tentative Tract Map No. 51122. Accordingly, any future improvements to the permitted development, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), and any grading, which are proposed within the restricted area shall require an amendment to Permit No. 5-99-329 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.

B. Concurrently with the recordation of Tract Map No. 51122, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development in the restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission approved amendment to this coastal development permit.

6. Assumption of Risk

A. Concurrently with the recordation of Tract Map No. 51122, the applicant shall execute and record over Lots 115, 116 and 121 of said Tract Map a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from landslides and soil erosion, and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval the project for any damage due to natural hazards. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the enforceability of the restriction.

B. PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record over the above-described lots a deed restriction, in a form and content acceptable to the Executive Director incorporating all of the above terms of subsection A of this condition. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission approved amendment to this coastal development permit.

7. Habitat Restoration Plan

A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, final plans and specifications for the implementation of the West Bluffs Coastal Sage Scrub Habitat Restoration Plan prepared by EARTHWORKS Construction & Design dated March 2000 (the "Habitat Restoration Plan")

B. The permittee shall undertake development in accordance with the approved final Habitat Restoration Plan. Any proposed changes to the approved final Habitat Restoration Plan shall be reported to the Executive Director. No changes to the approved final Habitat Restoration Plan shall occur without a Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required. Pursuant to the plan, applicant shall monitor the project annually and replace plants that fail to establish in order to achieve 80% total coverage of native plants species. The annual monitoring report shall be submitted to the Executive Director.



C. Five years from the date of the receipt of the Certificate of Occupancy for the residences the applicant shall submit for the review and approval of the Executive Director, a Habitat Restoration Plan monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies that the on-site landscaping is in conformance with the Habitat Restoration Plan approved pursuant to this Condition and provides no less than 80% coverage and resists invasion by exotic plant species as demonstrated by less than 25% coverage of weed species (percentages are measured in absolute values). The monitoring report shall include photographic documentation of plant species and plant coverage.

If the Habitat Restoration Plan monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the Habitat Restoration Plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental Habitat Restoration Plan for the review and approval of the Executive Director. The revised Habitat Restoration Plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original Habitat Restoration Plan that have failed or are not in conformance with the original approved Habitat Restoration Plan.

8. Grading

A. All cut and fill slopes shall be stabilized with planting at the completion of rough tract grading, on the completion of final grading, and/or if the Executive Director determines that grading has stopped and that the interruption of grading will extend into the rainy season. Planting shall be in compliance with the Habitat Restoration Plan. Non-native plants used for temporary stabilization shall not be invasive or persistent species (see exhibit No. 20 for list of invasive plants). Such temporary planting shall be adequate to provide sufficient slope stabilization within 90 days and shall be repeated, if necessary, to provide such stabilization. This requirement shall apply to all disturbed soils including all unsurfaced roads and pads;

B. Should grading take place during the rainy season (November 1 – April 31), sediment basins (including debris basins, desilting basins, or silt traps) shall be required on the project site prior to or concurrent with the initial grading operations and maintained through the development process to minimize sediment from runoff waters during construction. All sediment should be retained on-site unless removed to an appropriate approved dumping location.

C. At the end of rough grading, all rough graded lots, and all disturbed areas not included in trail and park development or revegetation plans shall be revegetated with plants indigenous to the area. The plans shall specify seed and plant sources, using, as far as possible, locally collected seed.

D. All fuel modification plans shall have been reviewed and approved by the Los Angeles City Fire Department. Invasive plants, as noted above, shall not be employed in fuel modification areas. The majority of plants employed shall be California native plants naturally occurring on the Westchester Bluffs.

E. All proposed changes to approved plans shall be reported to the Executive Director. Any changes the Executive Director determines to be substantial shall require an amendment to this coastal development permit.

9. Submittal of Final Grading plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, final grading plans which include grading for the access road the view park and the drainage setback area/pedestrian trail.

10. Staging Area

Prior to the commencement of grading the applicant shall submit, for review and approval by the Executive Director, a plan showing where equipment and materials will be stored and any temporary access haul roads. No staging areas or haul roads shall be allowed outside areas already permitted for grading by this permit or other City-approved permits.

11. Water Quality

The applicant shall submit evidence that the project will incorporate Best Management Practices, including but not limited to catch basin filters, catch basin maintenance program, public education program regarding stormdrain signage and the City's household hazardous waste collection program.

12. Archaeological Resources

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall agree in writing, subject to the review and approval of the Executive Director, to the following:

A. Curation Facility.

1. Artifacts collected as a result of this project shall be curated at a qualified curation facility, such as the Los Angeles County Museum of Natural History. A qualified curation facility is one that meets the State Office of Historic Preservation Guidelines for Curation of Archaeological Collections.

2. Prior to completion of archaeological work at the site the applicant shall submit, for the review and approval of the Executive Director, evidence that:

(a) the curation facility meets the State Office of Historic Preservation Guidelines for Curation of Archaeological Collections; and

(b) evidence of the facility's willingness to accept the collection.

3. If no qualified curation facility is available at the time the project is complete, an amendment to this permit shall be required to determine the appropriate curation process.

B. Native American Monitor.

A Native American monitor shall be present on-site during all excavation activities to monitor the work. The monitors shall meet the requirements set forth in the Native American Heritage Commission Guidelines for Monitors/Consultants of Native American Cultural, Religious, and Burial Sites.

C. Review of Treatment Plan.

In the event that cultural resources are discovered and a Treatment Plan (mitigation plan) is prepared the Treatment Plan shall be submitted to the Executive Director for review and approval. Based on the mitigation procedures outlined in the Treatment Plan, the Executive Director will determine if an amendment to this permit is required.

13. Master Covenant And Agreement

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a Master Covenant and Agreement in a form and content acceptable to the Executive Director, pursuant to which the applicant shall agree to comply with Special Conditions Nos. 1, 2, 3, 4, 5 and 6. Such Master Covenant And Agreement shall be recorded against applicant's entire parcel, shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the Master Covenant And Agreement. The Master Covenant and Agreement may be terminated upon the Executive Director's determination that Special Conditions Nos. 1, 2, 3, 4, 5 and 6 have all been complied with.

15. City Conditions

Any proposed change to such procedures, operations and activities, including but not limited to changes in the City requirements shall be reported to the Executive Director to determine if an amendment to this permit is necessary. This action has no effect on local conditions imposed pursuant to an authority other than the Coastal Act. This action has no effect on local conditions imposed pursuant to an authority other than the Coastal Act.

16. Permit Compliance

All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the Executive Director and may require Commission approval.

**V. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares:

**A. Project Description and Location**

The applicant proposes to the resubdivision and merger of 12 lots into 6 lots within and partially within the Coastal Zone and construction of a proposed 70-foot wide entrance road off Lincoln Boulevard, partially within the coastal zone; construction of a 6-foot wide public trail along the bluff within a 10-foot wide easement partially within the coastal zone; removal of approximately .39 acres coastal sage scrub; and restoration of 10.46 acres of bluff face including revegetation with coastal sage scrub; construction of five below grade soldier pile walls; construction of a .32 acre public view park; dedication of open space; removal of check dams

within the large ravine (Hastings Canyon); and on-site and off-site infrastructure improvements associated with a 32 acre, 114- single-family lot subdivision that is outside of the Commission's jurisdiction, except for the bluff face and lower portion of ravine (Hastings Canyon). Total grading within the coastal zone will be approximately 64,640 cubic yards of cut. The portion of the project site within the coastal zone consists of 11.95 acres (see Exhibits No. 2 and 3). The applicant is also proposing to dedicate as open space 15 off-site lots (approximately 1.9 acres) along Cabora Drive.

The Coastal Zone boundary is generally located at the top of the bluff, which varies between the 145 to 150 foot elevation. In the northwestern portion of the site, the boundary descends down into Hastings Canyon then up to Berger Avenue/Veragua Drive. In the northwestern portion of the property the boundary line follows the bluff edge and then descends down the east facing slope approximately 90 feet to Lincoln Boulevard.

The Tentative Tract Map proposes to subdivide the Coastal Zone, or bluff face area, into six open space lots, some of which partially extend outside of the coastal zone. The Tract Map will dedicate public right-of-way in the Coastal Zone for Lincoln Boulevard widening and for proposed Street "A". The Map will also dedicate public use easements in the Coastal Zone over the proposed view park lot off of Street "A" and for the proposed bluff top trail (see Exhibit No. 3).

The Tract Map will merge into the proposed open space lots, eleven existing legal lots of Tract 9167 that are located on the bluff face and in the Coastal Zone on the northwest side of the project. Portions of three additional lots of this Tract that are on the bluff face or in Hastings Canyon, but not in the Coastal Zone, will also be merged into one of the proposed open space lots. The Tract Map will also vacate a section of Hastings Avenue (unimproved roadway) within Hastings Canyon that was previously dedicated with Tract 9167 (see Exhibits No. 4 and 5).

As proposed, no residential development will occur within the Coastal Zone. Residential lots will be set back from the bluff edge 30-90 feet. Only the rear portions of 3 lots extend into the Coastal Zone. The planned residential structures, which are all located outside of the coastal zone, will be setback an additional 15 to 25 feet from the rear property lines.

The property within the Commission's jurisdiction consists of 11.95 acres or 27% of the total project site. The 11.95 acres within the coastal zone is mainly comprised of steep natural slopes descending on the northerly and westerly property boundaries. The natural slopes vary in gradient from 2:1 (horizontal to vertical) to almost vertical in steeply incised draws. The incised draws are generally less than 20 feet in width with vertical wall heights on the order of 5 to 10 feet. However, a major ravine that subparallels Berger Avenue in the western portion of the site has a width that varies from 50 to 250 feet with vertical wall heights on the order of 30 feet. The ravine extends approximately 700 feet into the project site from Cabora Drive. However, only approximately 170 feet, or 24%, of the Canyon is within the Coastal zone and

within the Commission's jurisdiction (see Exhibits 4 and 5). The proposed project will not fill or grade that portion of the ravine that is within the coastal zone. The only development proposed within this portion of the ravine is the removal of two concrete check dams, that have been undermined, and revegetation.

The applicant is proposing to grade approximately 3.26 acres, or 27% of the 11.95 acres within the coastal zone. Grading within the coastal zone will consist of approximately 60,640 cubic yards of cut. Approximately 89%, or 54,000 cubic yards, of the cut will be for widening Lincoln Boulevard and construction of the entrance road (Street "A") and the public view park. The public view park will require approximately 4,000 cubic yards of grading. The remaining 11%, or 6,640 cubic yards, would be along the top edge of the bluff face to create the proposed drainage setback area at the top of the bluff face and repair the smaller erosional features.

The project is located in the Westchester/Playa del Rey community at the western edge of the City of Los Angeles approximately 1.25 miles from the Pacific Ocean. The site is adjacent to Lincoln Boulevard on the east, and faces an existing single-family residential community on the south. The northern boundary of the site generally follows the alignment of Cabora Drive, a service road along the face of the Westchester/Playa del Rey Bluffs, extending approximately 25-30 feet further north from the Cabora Drive along the northern and northeastern portion of the site, except for a small portion that extends approximately 100 feet north of the Cabora Drive. In the western portion of the site the boundary line follows approximately the southern edge of Cabora Drive (Exhibits No. 2-4).

The entire 44.95-acre site consists of a broad, gently sloping bluff top with moderate to steep natural slopes descending on the northerly and westerly property boundaries. The bluff face is traversed by the partially paved Cabora Drive which is located near the toe of the natural slope and overlies and provides access to the City of Los Angeles North Outfall Sewer. A minor paved access road traverses up from Cabora Drive in the eastern portion of the site to the top of the bluff and leads to a graded flat pad that was formerly the location of a radio transmission tower. Ground elevation on the site ranges from approximately 50 feet above mean sea level along Cabora Drive at the base of the natural slope to 135 to 170 feet on the bluff top (see Exhibits No. 2A and B).

The site overlooks the Ballona Wetlands to the north and northwest. The bluff face is highly visible from Lincoln Boulevard, which runs in a north-south direction to the east of the project, and Jefferson and Culver Boulevard that run east-west and are located north of the project site.

## **B. Area Planning History**

Because the bluff faces along the Westchester Bluffs were visually and biologically part of the Ballona Wetlands system, Los Angeles County included the lower portions of these bluff face lots as part of the Marina del Rey/Ballona Land Use Plan which was certified by the Commission on October 10, 1984. Subsequently, the City of Los Angeles annexed a 458 acre portion of the County's Marina del Rey/Ballona LCP area which included the Westchester bluff top and bluff face lots. The City of Los Angeles then submitted the Playa Vista Land Use Plan for the newly annexed coastal lands. The Commission certified the City's Playa Vista Land Use Plan in 1986. As a result of a court suit challenging the adequacy of habitat protection in the land use plan, the City and County are revising the LUP to reflect a settlement (Friends, etc.). The settlement proposes additional wetlands at the toe of the bluff but does not propose changes in land use for the lots subject to this permit application.

Prior to the Coastal Act the bluff face was subdivided into multiple "tiers" of lots, with the first row generally located below (north of) Cabora Drive (currently a private, paved access road) and the second and third tiers located above (south of) Cabora Drive and below (north of) Veragua Drive (at the top of bluff). The proposed property lies approximately between Cabora Drive to the north, and 80<sup>th</sup> Street and Rayford Drive on the south. The property is within the certified Playa Vista Land Use Plan area and designated as a single-family residential area. The Playa Vista Land Use Plan identifies the area above (south of) Cabora Drive as Residential I and the area below (north of) Cabora Drive as a Ecological Support area or buffer area for the wetlands. The Ballona Creek wetlands occupy approximately 163 acres north of the bluff and Cabora Drive. The subject lot zoning is identified as Residential I.

Recently, subdivided lots on the bluff face and crest of the bluff to the west of the project site have been sold to separate owners who have constructed several single-family homes. The lots have little buildable area atop the bluff, so the homes are built mainly down the bluff face. Because these houses are highly visible and may have adverse effects on the biologic and visual quality of the Ballona Wetlands that lie below the bluff, the City of Los Angeles applied for a boundary line adjustment so that the Coastal Zone Boundary did not cut through the middle of properties. Several homes were built on this bluff prior to the Coastal Zone Boundary Adjustment. Since the boundary adjustment there have been approximately seven single-family residential developments approved by the Commission for construction along this portion of the bluff.

The lower portion of the proposed site was within the Coastal Zone prior to the Coastal Zone Boundary Adjustment. The upper portion of the property was annexed into the Coastal Zone in 1990 as a result of the Minor Boundary Adjustment BA #6-89. The recently adjusted Coastal Zone Boundary runs along Veragua Drive to the west of the project site and then follows the top of the bluff through the undeveloped project site to Lincoln Boulevard.

### **C. Standard of Review**

Even though there is a certified Land Use Plan for a portion of this bluff, the standard of review for development is the Coastal Act. The reason for this is that there is no certified implementation program. Until the Commission has certified a total LCP the standard of review remains the Coastal Act. However, it has been the Commission's practice to consider its action in certifying a LUP in reviewing proposed projects within partially certified areas.

#### **D. Public Comments**

The South Coast District office has received a number of letters from residents, neighborhood groups, and environmental groups in opposition to the project. Concerns raised include excessive grading and landform alternation, visual impacts, impacts to biological resources, including wetlands, landscaping, and traffic generation. Some of the concerns raised are issues outside of the Coastal Zone and not within the Commission's jurisdiction. Concerns that raise Coastal Act issues have been addressed below in the staff report.

Since the proposed project was originally submitted to the Commission, a number of letters have been submitted, both in support and in opposition to the project. The letters are attached as Exhibit No. 19.

#### **E. Visual Resources/ Landform Alteration**

Section 30251 of the Coastal Act states that permitted development shall be sited and designed to minimize the alteration of natural landforms and protect the scenic and visual quality of coastal areas:

##### Section 30251

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.*

Section 30253 of the Coastal Act states in part:

*New development shall:*

*(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

*(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding*



*area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The certified Land Use Plan states:

*Grading shall be permitted on the bluffs only to the extent necessary for habitat protection, mitigation of potential geologic hazard, slope stabilization, erosion control, residential development or road construction. However, any grading permitted for such purpose shall minimize landform alteration to the maximum feasible extent, consistent with the above permitted development. Any development on the bluffs shall incorporate adequate standards for grading, drainage control, setbacks and geologic engineering.*

The Westchester bluffs extend approximately 3.25 miles from Centinela and Sepulveda Boulevards in the east, outside of the Coastal Zone, to Vista Del Mar Boulevard in the west. The bluffs rise approximately 120 to 170 feet above mean sea level (see Exhibit No. 2A). The bluff is capped by Quaternary Terrace Deposits that range in thickness from approximately 20-35 feet. Pleistocene marine sediments (poorly consolidated sand with occasional gravel and cobble layers) underlie the Terrace Deposits. The bluff material is subject to slippage and erosion and needs support if graded or disturbed. According to the Geotechnical Report prepared for the project (Pacific Soils Engineering, Inc, 2/1/99), surficial failures have occurred along oversteepened portions of the slopes of the Ballona escarpment.

The project site is the last large undeveloped parcel along the Westchester bluffs. The bluffs on the project site are relatively undeveloped but over the years have been modified by the construction of Lincoln Boulevard, installation of drainage channels, the North Outfall Sewer, and grading and paving of Cabora Drive. In addition, utility poles exist on the site and remnants of a deteriorated paved access road leading up the bluff face to a former radar/radio antenna site is visible. The former antenna site has deteriorated paving and a chain-link fence partially surrounding the site.

The bluffs to the east and west of the project site are developed. To the east, across from Lincoln, and outside of the Coastal Zone, the bluff tops are developed with single-family residences and Loyola Marymount University. Immediately across Lincoln at Hughes Terrace Road, a four-story building is built into the bluff. West of the project site, there are a number of large multi-story residential structures located atop the bluff and a number of residential structures that cascade down the bluff face.

The proposed project will require 60,640 cubic yards of total grading (cut) along the upper bluff face and bluff top for the construction of the access road (Street "A") leading to the interior lots, and for erosion control and drainage improvements along the bluff edge (see Exhibits No. 9 and 10A-F). Approximately 54,000 cubic yards of grading, or 89% of the total grading, will

be necessary for the construction of Street "A". Approximately 6,640 cubic yards will be for bluff edge erosion control and drainage improvements.

1. Street "A"

Street "A" will be approximately 50-60 feet wide and extend approximately 480 feet from Lincoln Boulevard up the northeastern portion of the property to the top of the mesa, which is outside of the Coastal Zone. The road cut for Street "A", as it traverses up the bluff face, will lower the elevation of the bluff face and top of the bluff from approximately 10 to 56 feet. Grading for the road will require approximately 54,000 cubic yards of grading with a 90 foot high by 260 foot wide, engineered 2:1 cut slope on the down slope side of the proposed street.

According to the EIR, with proposed revegetation of the cut slope for Street "A", views will not be significantly impacted. Furthermore, the EIR also states that, due to existing surrounding development atop and down the bluff face to the east and west of the proposed development site, the visual impact of the proposed project would be substantially less than the surrounding development.

The Commission does not agree that impacts from Street "A" will not be significant. Section 30251 of the Coastal Act states in part that the scenic and visual qualities of coastal areas shall be protected and development shall minimize the alteration of natural landforms, enhance visual quality in visually degraded areas, protect the scenic and visual qualities of coastal areas, and site and design development to protect views to and along scenic coastal areas.

As stated, the 11.95 acre bluff face within the coastal zone, is part of the last large undeveloped parcels atop the Westchester bluff and immediately adjacent to the Ballona wetlands. It is a prominent, highly visible geologic feature and constitutes a scenic coastal feature. The grading for Street "A", street improvements, and brush clearance for fire department requirements, will create an approximately 480 foot long visible swath along the bluff face. The street and grading will be visible along the coastal routes of Lincoln Boulevard, which is a main north-south coastal access corridor, and Jefferson Boulevard, a main east-west coastal access corridor, providing access from the inland areas to the beaches of Playa del Rey and Dockweiler.

The 54,000 cubic yards of grading and construction of a 90 foot high engineered slope for the construction of Street "A" is a significant amount of grading and natural landform alteration. The applicant, however, argues that, due to historical grading for Lincoln Boulevard, the slope is not a natural landform and Section 30251 of the Coastal Act should not apply to this portion of the proposed development. To support the applicant's argument, the applicant has submitted historical aerial photographs and topographic maps that show that the bluff, prior to the construction of Lincoln Boulevard in the 1930's, was a continuous bluff formation that extended to the east, across the present location of Lincoln Boulevard (see Exhibits No. 11 and 12). The construction of Lincoln Boulevard required extensive grading to lower the gradient,

and laying back the slopes along the sides of the new road. This grading activity affected the northeast corner of the proposed development site, in the location of the proposed Street "A". Therefore, the applicant concludes, the bluff slope in this section of the property is not natural. Furthermore, the applicant states that Lincoln Boulevard will be widened as part of the Playa Vista development traffic mitigation measures and the applicant is required to dedicate a variable width widening of 10 to 17 feet along Lincoln Boulevard frontage for a planned half-street pavement width of 57 feet.

Although the bluff was altered by the construction of Lincoln Boulevard, the northeast portion of the proposed project site still retains the geomorphologic features of a bluff. Furthermore, the bluff was altered more than 60 years ago and is viewed by many, in its present form, as a natural landform and considered a highly scenic feature. Therefore, the area should still be considered a natural landform and a visually significant geologic feature that should be protected under Section 30251 of the Coastal Act.

Furthermore, while the Playa Vista traffic mitigation measures along Lincoln Boulevard may further alter the project property, at this time, the Commission staff has not reviewed those traffic mitigation measures or the Playa Vista project, which would need to be approved by the Commission. Therefore, at this time, staff can not speculate as to the scope of work or amount of grading that would be required along the project property's Lincoln Boulevard frontage without the proposed Street "A".

To minimize grading and landform alteration, as required under Section 30251 of the Coastal Act, there is an alternative to Street "A" that will provide access to the property without requiring grading within the coastal zone. Alternative access to the site can be provided from the existing residential streets along the southern portion of the property (see Section F, Public Access and Traffic, for a discussion of this alternative). By eliminating Street "A", there will be a net reduction of approximately 54,000 cubic yards of grading within the coastal zone, which would be required for the construction of Street "A" and the adjacent view park.

The Commission must consider the impacts to coastal resources and coastal access within the coastal zone and consider alternatives that would be less environmentally damaging. Since the City has not ruled out the use of the existing residential streets as potential access for the development of the site, this alternative should be considered a viable alternative that would have less of an environmental impact than the proposed Street "A". Therefore, the Commission can not find that the proposed project with Street "A" is consistent with Section 30251 of the Coastal Act.

The applicant argues that any impacts to coastal resources from the construction of Street "A" can be mitigated through landscaping and restoration. The applicant has provided restoration plans that include revegetating the entire bluff face with native plant material, including coastal sage scrub. To further mitigate the impacts of the road, the applicant is proposing, as part of the development proposal, to retire the development potential of 15 off-site residential lots, through a recorded open space deed restriction. The 15 lots are located west of the

development site, immediately south (upslope) of Cabora Drive. The 87-100 foot deep lots extend from Cabora Drive, upslope to approximately the middle of the 140-foot bluff face. The upper half of the bluff face consists of 16 single-family lots. Eleven of these upper bluff face lots are developed with multiple-story single-family residences that cascade down the bluff face. The remaining five lots are vacant.

The 15 lots offered by the applicant, are part of Tract no. 9167, which was created in the 1930's. Access to the lots are via Cabora Drive, which is a dedicated public road that extends from Lincoln Boulevard, located east of the lots, and to Falmouth Avenue, located west of the lots. Cabora Drive is currently used as a City utility access road and is not opened to the public. In addition to the 15 lots owned by the applicant, there are approximately 21 additional lots, under separate ownership, located on the north side (downslope) of Cabora Drive.

The applicant argues that by offering to retire these 15 lots from future development, the area (1.9 acres) will be preserved as open space, reducing any potential impacts that development of the lots and necessary improvements to Cabora Drive will have on the bluff and adjacent Ballona wetlands.

Although the 1.9 acres could be preserved as open space through the applicants' offer, there has been no evidence submitted at this time, regarding the development potential of the lots along Cabora Drive. As stated, these 15 lots, along with other vacant lots along Cabora Drive, were created in the 1930's, and at this time, not one of the lots in this area have been developed, nor does the City have plans on improving Cabora Drive to provide access to the lots.

Furthermore, these 15 lots are located below a tier of lots that are developed with residences that cascade halfway down the bluff face. Because of the adjacent development, the scenic value of this bluff area has been diminished. Therefore, the mitigation value of these 15 lots is not equivalent to the value of the undeveloped and scenic bluffs along the proposed project site. Nor does the proposal to maintain the 15 lots as open space as mitigation comply with the Coastal Act requirement to minimize landform alteration on the project site itself. As explained above, landform alteration and visual impacts can be eliminated by providing access to the proposed residences by extending existing streets and, if necessary, reducing the project size or incorporating other mitigation measures to prevent significant adverse impacts on traffic on existing streets.

Therefore, since there are alternatives to accessing the property that will eliminate a significant amount of grading and reduce the visual impact within the coastal zone and allow the applicant to provide access to the site, this coastal development permit is conditioned to remove Street "A" from the Coastal Zone. The applicant shall submit a revised Tentative Tract Map showing the elimination of Street "A", and all associated grading, from within the boundaries of the Coastal Zone.

## 2. Bluff Top Grading

The proposed grading within and along the bluff edge will impact approximately 2.31 acres or 19% of the total 11.95 acres within the Coastal Zone. Grading along the top of the bluff will lower the bluff edge, which varies from approximately the 143 to 150 foot elevations, which is the coastal zone boundary, from a minimum of approximately 5 feet to a maximum of approximately 19 feet. In the eastern portion of the site (Lots 1-6) the existing elevation along the bluff edge is approximately 143 to 150 feet. Proposed grading will lower the bluff edge to approximately 13 to 19 feet, with a daylight line at approximately 130". Along the middle section, Lots 7-16, the existing elevations along the bluff edge is approximately 140-145 feet. Grading will lower the bluff edge by approximately 5 feet, except in front of Lots 7 and 8 where the edge will be lowered by approximately 15 feet to an elevation of 130 feet. Lots 17 to 26, located in the northwestern portion of the property have an existing bluff edge elevation at 150 feet. Grading will lower the existing elevation by approximately 5 to 12 feet.

The grading along the bluff edge is required by the City as a condition of development. To ensure stability of the site and prevent soil erosion due to surface runoff, the City would have generally required the applicant to regrade the entire slope at 2:1 and require the use of culverts along the bluff face to control runoff. In order to develop the bluff mesa consistent with the City's building standards but also preserve the majority of the bluff face in its natural condition, as opposed to regrading the entire slope at a 2:1 engineered slope, the City's Building and Safety Department required, as an alternative, that the bluff edge be graded so that runoff drains away from bluff edge to reduce runoff onto the bluff face to prevent further erosion of the bluff and to ensure geologic stability of the bluff. The City has also required that

all residential development be setback 15 feet behind a theoretical 2:1 projection line drawn from the base of the bluff to the top of the bluff.

Although the grading will impact only 19% of the area, removal of 5 to 19 feet of bluff top will result in the alteration of the existing bluff edge and could have adverse impacts on the visual quality of the bluffs. Section 30251 of the Coastal Act states in part that the scenic and visual qualities of coastal areas shall be protected and development shall minimize the alteration of natural landforms and enhance visual quality in visually degraded areas. The lowering of the bluff edge a 5 to 19 feet in various locations can result in visual impacts. However, the applicant is limiting the grading to only 19% of the site and is limiting the amount being removed from the edge to the minimum necessary to comply with the City's Building and Safety requirements. Furthermore, the applicant is proposing to mitigate any adverse Impacts through planting and restoration of the ungraded portion of the bluff face.

The purpose of the grading of the bluff top is to direct drainage away from the bluff face and direct it to a drainage swale that will collect drainage and carry it laterally across the top of the bluff to a catch basin connecting to the project's proposed on-site storm drain system. The drainage swale is designed as part of the bluff top trail, which meanders in and out of the coastal zone. Moreover, the proposed grading will provide geologic stability and erosion control along the bluff face and reduce the amount of sloughing and erosion that is occurring along this area that has potential impacts to the wetlands through deposition of sediments.

To further reduce erosion along the bluff face within the erosion gullies, two soldier pile/retaining walls are proposed partially within the Coastal Zone. The walls will be buried atop the bluff and immediately above and outside of the erosional gullies. One wall, which is a total of approximately 25 linear feet, will extend approximately 10 feet into the Coastal Zone. The second wall, measuring a total of approximately 160 linear feet, will have approximately 40 linear feet in the Coastal Zone. The erosional gullies below the walls will not be altered other than with landscaping to minimize further erosion.

To mitigate the visual impacts from grading along the bluff edge, the applicant proposes to landscape all graded areas and restore approximately 9.64 acres of natural bluff face, that will remain ungraded within the Coastal Zone. The restoration plan includes the removal of all non-native vegetation and replanting with native vegetation, including Diegan sage scrub. Combined with the proposed 30 to 90 foot setbacks between the top of the bluff face and the rear property lines of the proposed residential lots and the additional setback of 15 to 25 feet for the residential structures from the rear lot line, the impact from the development will be reduced.

In addition to the landscaping and restoration, the applicant is proposing to incorporate a public view trail along the top of the graded bluff within the drainage setback area, to provide an added public benefit. The trail will extend from Berger Avenue, in the northwest portion of the property, to the eastern portion of the site. The trail will be approximately 6 foot wide and located within a 10-foot wide public access easement. Approximately 530 lineal feet of the total

2,100 feet of the proposed bluff trail is within the Coastal Zone. The construction of the trail will not require any additional grading since the trail will be located within the graded area that is needed for the drainage setback improvements.

The grading plan was developed by the applicant and the City as an alternative to a reconstructed slope, and although the bluff edge will be altered, 81% percent of the bluff face will remain ungraded and restored with native landscaping. The proposed restoration and enhancement of the degraded bluff face, and access and open space improvements can adequately mitigate the impacts due to grading and landform alteration. Therefore, the proposed grading along the top of the bluff (not including Street "A") can be found consistent with Section 30251 of the Coastal Act. With the elimination of Street "A", the applicant may need to extend the grading along the bluff edge for necessary erosion control and drainage improvements similar to the other portions of the bluff. This grading should be nominal and be limited to the top edge of the bluff where the remaining bluff face will be ungraded. The revised grading plans required to indicate the removal of Street "A" from the Coastal Zone shall also include grading for the erosion and drainage improvements, and be limited to the top edge of the existing bluff.

Furthermore, there is additional grading that is not necessary for erosion control or stability of the slope. The proposed project includes an approximately 2,800 square foot flat "trail vista point" in the northwestern portion of the property. The grading for this vista point will push the grading out approximately 40 to 60 feet beyond the trail to create the flat pad. The grading that will create the "trail vista point" is not necessary for the bluff top drainage improvements and does not minimize grading pursuant to Section 30251 of the Coastal Act.

The vista point can be eliminated and the grading can be brought back up the slope to the minimum needed for the drainage improvements. This will eliminate the pad and a portion of the grading along this portion of the bluff. By eliminating the pad area, drainage should not be a problem, since this area is generally a high point and the plans indicate that, at this location, drainage will be directed to the east and west to proposed catch basins. Therefore, as a condition of this permit, the applicant shall submit revised plans showing the elimination of the vista point, and all associated grading, in the northwest portion of the site.

Moreover, to ensure that the trail and open space areas remain as open space, and open to the public, a special condition requiring the dedication of the open space and the use of the trail for public use is necessary, as described in the Public Access section below. Furthermore, to ensure that the open space and trail are maintained, a special condition requiring the applicant or future property owners to maintain the areas, including the public trail and all landscaped areas is necessary.

To ensure that the visual impacts due to the remaining grading along the bluff edge will be minimized, the applicant has submitted a landscaping plan using coastal sage scrub and other native plants. All graded areas, including the ungraded areas of the bluff face will be

landscaped. To ensure that the landscaping is completed consistent with the submitted plan, a special condition is necessary to require that landscaping is carried out consistent with the plan and that the landscaping be monitored to ensure adequate coverage and success.

Furthermore, in previous actions on hillside development in geologically hazardous areas, the Commission has found that there are certain risks that can never be entirely eliminated. In addition, the Commission notes that the applicant has no control over off-site or on-site conditions that may change and adversely affect the coastal slope on the property. Therefore, the Commission finds that the proposed project is subject to risk from erosion and/or slope failure (topple or slump) and that the applicant should assume the liability of such risk. The assumption of risk, when recorded against the property as a deed restriction, will show that the applicant is aware of and appreciates the nature of the hazards which may exist on the site and which may adversely affect the stability or safety of the proposed development. To ensure that all future development will be consistent with the Commission's action and with the Chapter 3 policies of the Coastal Act, a future Improvements deed restriction is necessary. Furthermore, the Commission's approval of this project is based on a review of a professional design prepared by the project engineers and geologists and reviewed by the City of Los Angeles. Therefore, the Commission has imposed a condition requiring the applicant to carry out the work as fully described in its submittal. Similarly, interpretations of the meaning of a proposal or even of a condition can vary especially when the applicant is faced with field conditions. Therefore, the Commission is requiring that the applicant, as it has freely in the past, accept site visits in order to determine compliance with the Commission's conditions. The Commission, therefore, finds that only as conditioned will the proposed development be consistent with Section 30253 of the Coastal Act.



**F. Public Access and Traffic**

All projects requiring a Coastal Development Permit must be reviewed for compliance with the public access provisions of Chapter 3 of the Coastal Act. Section 30210 states that maximum access and recreational opportunities shall be provided to protect public rights:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211 of the Coastal Act states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30252 of the Coastal Act states:

*The location and amount of new development should maintain and enhance public access to the coast by providing adequate parking facilities.*

The applicant is proposing to provide a public access trail along the bluff edge and a public view park adjacent to the proposed access road (Street "A"). See Exhibit No. 13. The public access trail will be a 6-foot wide concrete trail, within a 10-foot wide public access easement, along the top of the bluff. The trail will be constructed within the proposed bluff top drainage setback area. The trail will run from Street "A" in the northeast portion of the site to Berger Avenue in the southwest corner of the site (outside of the Coastal Zone). Approximately 530 lineal feet of the proposed bluff top trail will be within the Coastal Zone (a total of 2,100 lineal feet of trail will be within and outside of the Coastal Zone in this project site. The trail will be located in front of the proposed residential development. The City's Tract conditions require dedication of this trail for public use.

The proposed 2,100 foot long public trail will provide public access along the bluff over property that is currently private. The trail will offer unobstructed views to the general public of the Ballona Wetlands, Santa Monica Bay, and the Santa Monica Mountains. The public trail, as located, will enhance public access.

In addition to the proposed bluff trail the applicant is proposing a .32 acre view park. The view park will be located on the north side of the proposed Street "A". The park will be entirely within the Coastal Zone. The park area would have approximately 300 feet of frontage on Street "A" and a depth off the street of between 30-60 feet. Landscaping of the view park is proposed to include turf, shrubs, ground cover, and trees.

The park as proposed will be open to the general public and an easement over the park for this purpose will be dedicated to the City of Los Angeles. In support of the view park and bluff top trail the applicant is also proposing public parking on the proposed access road (Street "A"). The access road, which is partially (the northern half of the road) is in the Coastal Zone, will provide approximately 23 parking spaces on the north side within the Coastal Zone and 25 spaces on the south side outside of the Coastal Zone. Furthermore, approximately 11.5 acres or 96% of the property (Lots No. 115, 116, and 121) within the coastal zone, including the trail, is being offered by the applicant, as open space, through the recordation of a deed restriction.

However, due to the substantial amount of grading and landform required to construct Street "A" and view park, and the adverse visual impacts, the proposed project can not be found consistent with the visual policies of the Coastal Act (see Section E. Visual Resources/Landform Alteration). Therefore, as a condition of this coastal development permit Street "A" and the view park are required to be removed from the proposed project.

As conditioned, with the elimination of Street "A" and the public access that would have been provided by the access road, the project will continue to provide bluff top public access via the public trail with the entrance from Berger Avenue to the west. However, with the elimination of Street "A", the trail may terminate along the northeastern part of the bluff top without a public access point from the residential street. This will require trail users to turn around and may discourage the use of the eastern portion of the trail or the entire trail. To ensure adequate public access of the trail, it is important for the trail to provide access points along both ends of the trail. Therefore, the applicant shall submit revised plans indicating that the trail will have public access in the northeastern portion of the property from the adjacent internal streets.

Furthermore, the denial of Street "A" will require the use of the adjacent residential neighborhood to provide vehicle access for the residential development. With this access alternative, traffic from the 85 internal residential lots, which would have entered the project site from Street "A", via Lincoln Boulevard and Hughes Terrace, would enter the project site via Lincoln Boulevard and 83<sup>rd</sup> Street and various neighborhood streets off of Manchester Avenue, that are located south of the project site and lead to the site. These access routes would be outside of the coastal zone.

The impact from these alternative access routes would be to the adjacent residential neighborhood outside of the coastal zone from increased traffic and circulation. According to the EIR, this alternative would result in adverse impacts to the Level of Service at Lincoln and 83<sup>rd</sup> Street, with lesser increases at Manchester Boulevard and Rayford Drive, Park Hill Avenue or Hastings Street also possible. In addition, the EIR indicates that impacts on existing neighborhood streets would be greater and increases in traffic on the most heavily traveled residential streets could be as much as 3.5 times greater with this alternative.

The applicant argues that because of these impacts to the adjacent neighborhood and greater impacts to key intersections, Street "A" is the best alternative and one that is preferred by the City. The City has submitted a letter, dated May 18, 2000, stating the City's Department of Transportation (LADOT) position regarding site access (see Exhibit No. 19). The letter states that LADOT determined that the proposed Street "A" location is the preferred access route for the site because the existing roadways and surrounding intersections cannot accommodate the addition of traffic from the entire 114-unit development. The City indicates that other access alternatives were examined, including elimination of direct access from Lincoln Boulevard. Based on their analysis of the traffic, the City states that the elimination of site access from Lincoln Boulevard would result in significant, unmitigatable impacts at the intersection of Lincoln Boulevard and 83<sup>rd</sup> Street, and would add increased traffic to the cross streets along Manchester Avenue, affecting traffic flow along this coastal access corridor.

The EIR indicates that, except for Lincoln Boulevard and 83<sup>rd</sup> Street, which operates at LOS F during morning peak and LOS D during the peak evening, studied intersections in the project vicinity operate at LOS A or B (LOS A to C operate with little or no intersection congestion. LOS D typically is the level for which a metropolitan area street system is designed. LOS E represents volumes at or near the capacity of the highway that may result in stoppages of momentary duration. LOS F occurs when a facility is overloaded and is characterized by stop-and-go traffic with stoppages of long duration).

Although the City has stated that Street "A" is the preferred alternative, the City has not indicated that access from the south through the existing residential neighborhood is not feasible with the development of the proposed site. If ingress/egress is required to be taken from the residential streets, there will be an increase in traffic through the adjacent residential neighborhood, which may affect the level of service at the various intersections. However, as stated in the EIR, all intersections except one, operate at levels with little or no intersection congestion (LOS A to B). Based on the EIR's data, these intersections have the current capacity to accept additional traffic without significantly impacting the level of service. The one intersection that operates at a worse level of service is at 83<sup>rd</sup> Street and Lincoln Boulevard. This intersection operates at LOS of F during peak periods. Eighty-third Street is the only street providing direct access to Lincoln Boulevard from this neighborhood.

Furthermore, there are six routes (Rayford Drive, Park Hill Drive, Hastings Avenue, Redlands Street, Gulana Avenue and 83<sup>rd</sup> Street) that lead out of the residential neighborhood and connect to the two major thoroughfares--Lincoln Boulevard and Manchester Avenue (see Exhibit No. 14). These routes provide six alternative routes for the proposed development and for neighborhood residents to use during peak periods in the event one or more becomes congested. Moreover, although the intersection at 83<sup>rd</sup> Street and Lincoln Boulevard operates at a LOS of F during peak periods and may become more congested with the proposed development, the five other routes provide access to Manchester Boulevard, which provides direct access to Lincoln Boulevard.

The additional traffic to and from this neighborhood will not have a significant impact on coastal access. The project will generate approximately 1,220 trips per day, with approximately 95 trips during the morning peak hour, and 128 trips occurring during the evening peak hour. The impact from these trips would generally be to the residential neighborhood and will not significantly affect the flow of traffic along Lincoln Boulevard and Manchester Avenue. Moreover, the City can implement additional traffic measures to mitigate the traffic impacts to Lincoln Boulevard and Manchester Avenue, which serve as coastal corridors. Therefore, as conditioned, the proposed project will not have a significant impact on coastal access within the Coastal Zone. Therefore, the proposed project, as conditioned, will be consistent with Section 30210, 30211 and 30252 of the Coastal Act.

#### **G. Biological Resources**

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30233 states in part:

*(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

*(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.*

*(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*

*(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*

*(7) Restoration purposes.*

*(8) Nature study, aquaculture, or similar resource dependent activities.*

*(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary. Any alteration of coastal wetlands identified by the Department of Fish and Game, including, but not limited to, the 19 coastal wetlands identified in its report entitled, "Acquisition Priorities for the Coastal Wetlands of California", shall be limited to very minor incidental public facilities, restorative measures, nature study, commercial fishing facilities in Bodega Bay, and development in already developed parts of south San Diego Bay, if otherwise in accordance with this division.*

Section 30240(a) of the Coastal Act states:

*Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

This property is located on a highly visible bluff overlooking Ballona wetlands: the Westchester bluffs. These bluffs are prominent landforms rising 140-170 feet above the Ballona Wetlands. The existing Ballona Wetlands are remnants of a much larger wetland system that formerly covered approximately 1,750 acres. However, a change in course of the Los Angeles River, construction of the Ballona Flood Control Channel in 1932, and dredging of the Marina del Rey Small Craft Harbor in the 1960's drastically reduced the size of the marsh to its present state. Urban development in this region also contributed to the significant reduction in the quantity and

quality of the Ballona Wetlands. Most of the remaining Ballona Wetlands are no longer in their natural condition having been altered by oil drilling, pipelines, construction of roads, conversion to farm lands, and dredged material disposal.

According to the EIR urban development has exacerbated the erosion of Hastings Canyon and the on-going erosion has resulted in the depositing and accumulation of sand and soil sediments in the Ballona Wetlands, which has created an alluvial fan below the mouth of Hastings Canyon and north of Cabora Drive. This alluvial fan has provided an opportunity for invasive exotics, which further degrade the wetlands. Because of the deposition of silt over the years, the area immediately north of Cabora Drive, extending 300-400 feet from the road, has not been designated as wetlands [(CDP #5-91-463 (Maguire Thomas Partners))]. In a revised wetland delineation prepared this year for the Corps, Playa Vista identified 138.71 acres of wetland acreage in Area B (see Exhibit No. 8). This represents a reduction from the 1987 delineation (143.3 acres). This reduction is located on the expanding alluvial fan at the end of Hastings Canyon. The Corps has not determined whether this continued deposition will change its jurisdiction, but the fan has altered hydrology and function of the wetlands.

In other past permit action for the area, the Commission has recognized that concentrated drainage via the storm drain along Veragua Walk into Hastings Canyon contributes to bluff instability, and wetland impacts from sedimentation and pollution, that eventually get washed into the Ballona wetlands (5-98-282; 5-97-205; 5-97-349). The bluff face has also experienced erosion due to surface runoff and contributes to sedimentation.

The project site represents a portion of the upland habitat associated with the Ballona Wetlands. The bluffs generally support mixed coastal sage scrub, non-native grassland and disturbed vegetation. The project site contains less than five acres of intact coastal sage scrub on the bluff face, with the remainder of the bluff faces disturbed and supporting non-native grassland. According to the EIR the bluff face is characterized by native coastal (Diegan) sage scrub, non-native grassland and ruderal vegetation where native vegetation has been displaced (see Exhibit No. 7). Coastal sage scrub covers less than five acres in isolated patches along the bluff face. The vegetative cover of this community is generally sparse, ranging between 20 and 30 percent. The Commission's staff biologist has inspected the area, including the vegetation on the bluff face and has determined that due to degraded nature of the vegetation, limited isolated patches of Coastal Sage Scrub, and presence of invasive plant species, the value of the habitat on the bluff is low and does not constitute an Environmentally Sensitive Habitat Area (ESHA).

The LUP originally submitted by the County of Los Angeles proposed restoration of upland sensitive habitat that included the bluffs extending eastward of Falmouth Avenue to Lincoln Boulevard, which includes the proposed site. The California Department of Fish and Game (CDGF) objected to the inclusion of the 12 -acre portion of the bluff, between Falmouth Avenue

and Lincoln Boulevard as environmentally sensitive habitat. The CDFG found that the impacts of adjacent residential uses proposed south of Cabora Drive along the top of the bluffs as well as use of Cabora Drive, would preclude the long-term management of that portion of the bluffs as environmentally sensitive habitat. Therefore, the CDFG recommended deletion of the 12 acres of bluff from the restoration program. The CDFG further recommended that the deleted bluff acreage be replaced with 12 acres of environmentally sensitive habitat area located in the lowland portion of Area B. The Commission concurred with the CDFG's recommendation and excluded the bluff area as sensitive habitat.

The project will impact approximately 0.141 acres of jurisdictional streambeds. Only a small percentage of the streambeds' length are located in the Coastal Zone. The streambeds are regulated by CDFG and the jurisdictional waters regulated by the Army Corps of Engineers (ACOE). The portion of this jurisdictional area that is located within the Coastal Zone will not be significantly impacted. Most of the jurisdictional area is in the portion of Hastings Canyon that is located outside of the Coastal Zone. The habitat values of the jurisdictional streambeds have been determined by CDFG an ACOE, to be of minimal value. Due to the impacts to coastal sage scrub, located in and outside of the Coastal Zone, and to the wetlands located outside of the coastal zone, CDFG is requiring restoration along the bluff face consisting of habitat enhancement of existing Diegan sage scrub vegetation and removal of exotic vegetation. The California Department of Fish and Game is requiring the applicant to restore .90 acres of habitat, representing a mitigation ratio of greater than 5:1 for the CDFG jurisdictional area impacted. The applicant is proposing to plant a total of 8.16 acres of Coastal Sage Scrub along the bluff face, including planting with other native vegetation along the natural and graded areas.

According to the EIR this will increase habitat values on the bluff face for obligate species associated with the Ballona Wetlands which utilize the upland habitat. Furthermore, as proposed by the applicant, 9.64 acres or 81% of the bluff face, within the Coastal Zone, will be left ungraded and continue to serve as a buffer between the Ballona Wetlands and the residential areas to the south. However, since Street "A" will be deleted from the project, as a condition of the coastal development permit, the area that will be ungraded will increase to approximately 89-93% of the total 11.95 acres found within the coastal zone.

b) Bluff Habitat

This property in its entirety provides several types of habitat: the mesa or bluff top, the bluff face, and gullies or ravines.

1) The bluff top. The bluff top, consisting of approximately 32.74 acres, is not in the Commission's jurisdiction. Whether or not the bluff top plays an important role in the ecosystem, is not an issue that the Commission can address, since it is not in the Commission's power to regulate development on the bluff top.

2) The bluff face, consisting of approximately 11.95 acres, supports degraded Diegan sage scrub (coastal bluff scrub). The vegetation on the property, though degraded is denser and healthier appearing than on adjacent parcels that have been subject to fire clearance. The applicant proposes to restore the bluff face vegetation with native species compatible with Diegan coastal sage scrub species that will not have to be extensively cleared to protect the homes from fire.

3) There are four drainages on the property that are under the jurisdiction of the California Department of Fish and Game (CDFG). These drainages include Hastings Canyon and three other gullies that are incised down the bluff face. The opponents assert that there are wetlands within Hastings Canyon.

To be considered a wetland by the Coastal Commission there must be evidence that the area is a wetland as defined in Section 30121. Section 30121 states that:

“Wetland” means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes on or close brackish water marshes swamps, mudflats and fens.

To be judged a wetland a site must have one of three elements: (1) inundation, (2) hydric soils, or (3) hydrophytic vegetation. While these ravines are subject to seasonal floods, as a rule they are dry, so they are not inundated. Secondly, within the coastal zone, the four drainages support no hydrophytic plants, and in fact there is very little vegetation in the ravines. Third, the soils report prepared at the request of the staff showed that there are no hydric soils.

While Hastings Canyon does contain approximately .04 acres of wetlands, recognized by CDFG, in one isolated location, the wetland area is located outside the Coastal Zone. The applicant's biologist, representatives of the Department of Fish and Game, and the United States Army Corps of Engineers (Corps) and the Commission's staff biologist have inspected the Canyon and have determined that the biological value of the ravine is low. The approximately 0.8 acres of Hastings Canyon that are within the Coastal Zone, along with the other smaller drainages, have been determined by CDFG not to contain any wetlands. In support of this, the applicant has provided a 1703 permit from the CDFG and a biological and soil analysis by its consultant (see Exhibits No. 8 and 9) that indicated that the areas do not contain wetlands. Furthermore, the Commission's staff biologist has inspected the site and agrees with the applicant's report and CDFG that the drainages within the Coastal Zone do not support any wetlands. Therefore, based on the information provided by the applicant and site inspections, there are no areas that contain wetlands on the project site within the Commission's jurisdiction and not subject to Section 30233 of the Coastal Act.



The Coastal Act habitat policies require that projects adjacent to Environmentally Sensitive Habitat Areas be developed consistent with the maintenance of the habitat areas. Although this area is not immediately contiguous to the wetland and the value of small patches of habitat may be small, there is grounds within the general policies found in the Playa Vista Land Use Plan for preserving and restoring as much native vegetation as possible. The applicant is proposing to preserve and enhance the existing native plant material on the bluff face (see Exhibit No. 15). The applicant has submitted a revegetation plan that requires the removal, to the greatest extent possible, of all exotic non-native vegetation. The removal program will employ hand and hand tools, as well as limited chemical means. The type of weed removal employed will depend on type of weeds, location, and slope stability.

It is most important, however, that development adjacent to the wetlands not include species that may escape and supplant native plants within the ecosystem. As conditioned to include Diegan sage scrub and other native plants compatible with an upland bluff face community, the development will be consistent with Section 30240(a) of the Coastal Act. To ensure that the impacts to the native vegetation is mitigated, the applicant has submitted a landscaping plan indicating the type and location of native vegetation and includes the removal of non-native plants. The plan also includes success and monitoring criteria. The restoration plan includes performance standards that require total native plant coverage of 80% and the site resists invasion by exotic plant species as demonstrated by less than 25% cover of weedy species (percentages are based on absolute values).

To ensure that the landscaping and monitoring is carried out consistent with the submitted plan a special condition indicating the requirements for success and monitoring requirements is necessary. A report shall be required to be submitted to the Executive Director after five years to evaluate the success the landscaping and include remediation measures if the landscaping does not meet the success criteria. As conditioned to control grading, and to revegetate, the project conforms with Sections 30230, 30231, 30233 and 30240(a) of the Coastal Act.

c) Water Quality

The proposed project will redirect storm runoff from Hastings Canyon and existing surface runoff away from the bluff into an on-site storm drain system (the West Bluffs Storm Drain). The on-site storm drain system will extend into Lincoln Boulevard and continue north along Lincoln Boulevard approximately 400 feet and connect with the approved box culvert that the Playa Vista project proposes to build under Lincoln Boulevard (see Exhibits No. 16A and B). The Playa Vista storm drain culvert was previously approved by the Coastal Commission as part of the Playa Vista Freshwater marsh Plan. The Playa Vista storm drain improvements were designed and approved to accept the drainage from the proposed West Bluffs Project.

The EIR indicates that by redirecting runoff from the bluff face into the new drainage system, runoff over the bluff face will be reduced by approximately 41.3 cubic feet per second of total flows. Moreover, sediment loads would decrease due to decreased erosion along the bluff face and Hastings Canyon.

As conditions in the City's permit, a set of water quality control Best Management Practices (BMP's) will be required to mitigate the potential development impact and improve the quality of storm water flowing into the stormdrain. The BMP measures will consist of catch basin filters, catch basin cleaning, storm drain system signage, and household hazardous waste collection and education. A catch basin maintenance program will be developed and approved by the City of Los Angeles Storm Water Management Division. The program will include provisions for periodic inspections, debris removal, local area cleanup, and replacement of filter materials, and will include a funding mechanism. A special condition is made part of this permit to ensure that the project incorporates Best Management Practices to improve water quality runoff.

The stormdrain was originally proposed by the applicant within Street "A", however, because of the grading and visual impacts from Street "A", this coastal development permit is being conditioned to eliminate Street "A", and all associated grading, within the Coastal Zone. The elimination of the road will require the relocation of the stormdrain so that the bluff will not be altered. The on-site storm drain can be relocated to the south and outside of the coastal zone, which can then connect to the proposed off-site storm drain within Lincoln Boulevard. Relocating the proposed on-site storm drain to the south and outside of the Coastal Zone will ensure that the bluff within the Coastal Zone will not be significantly impacted by grading. Therefore, to ensure that the stormdrain has been removed from the Street "A" location the applicant shall submit revised plans that indicates that the on-site stormdrain has been removed from within the Coastal Zone. Therefore, the Commission finds, only as conditioned will the proposed project be consistent with Section 30230, and 30240(a) of the Coastal Act.

#### **H. Cultural Resources**

Section 30244 of the Coastal Act states:

*Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

According to the EIR many prehistoric sites have been found in the Ballona region and much of the are has been professionally surveyed. Three sites (LAN -63, -64 and -206) have been recorded either entirely or partially on the West Bluff property atop the mesa. All three sites were also subject to professional excavations. Based on this previous work the EIR concluded that adverse effects of the proposed development on the archaeological sites have been adequately mitigated.

In June 1997, the West Bluff property was examined by Dr. Jeffrey Altschul and Dr. Michael Hogan of Statistical research. Based on examination of the project site and review of a previous survey done by Archaeological Associates, Statistical Research concurred with

conclusion that LAN-63 and –64 meet the criteria as unique or important cultural resources as defined by CEQA Guidelines Appendix K and that LAN-206A which has been seriously degraded, if not destroyed, by previous development does not meet this criteria.

The proposed project would develop an area where two significant archaeological sites (LAN-63 and –64) are located. However, the EIR indicates that previous data recovery has mitigated the loss of information associated with these two sites. The proposed project, therefore, would not have a significant impact on archaeological resources within these two known sites. Although the site may have been surveyed additional artifacts may be uncovered during construction. As a condition of the City's approval the applicant is required to monitor all grading and construction activities and requires appropriate recovery and mitigation measures, regarding excavation, reporting and curation. In past permit action, the Commission has required similar requirements. Therefore, to ensure that the project is consistent with Past Commission action special conditions are necessary to ensure consistency with the Coastal Act.

To assure that the proposed project remains sensitive to the concerns of the affected Native American groups, a Native American monitor should be present at the site during all excavation activities to monitor the work. The monitor should meet the qualifications set forth in the NAHC's guidelines. As a condition of approval, an on-site Native American monitor that meets the qualifications of the NAHC's guidelines, shall be required during excavation activities. Therefore, as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act which requires reasonable mitigation measures be provided to offset impacts to archaeological resources.

Once a site is determined to contain significant cultural resources a Treatment Plan (Mitigation Plan) will be prepared and reviewed by the appropriate Federal and State reviewing agencies. The Treatment Plan will outline actions to be implemented to mitigate impacts to the cultural resources found at the site(s). To determine whether the Treatment Plan is consistent with the proposed permit or if an amendment to this permit is required, the applicant shall submit a copy of the Treatment Plan to the Commission. The Executive Director, after review of the Treatment Plan, will determine if an amendment will be required. The Executive Director will require an amendment if there is significant additional excavation required or there is a significant change in area of disturbance or change in the type of excavation procedures.

In the event that grave goods are discovered, the Research Design provides that upon the discovery of human remains, the Los Angeles County Coroner's Office will be notified in compliance with state law, and they in turn will request the Native American Heritage Commission to determine the cultural affiliation.

The Commission's Archaeological Guidelines also recommend that the research design include arrangements for curation of collections when appropriate, and dissemination of the research findings. Regarding curation, the proposed Research Design states that all project related notes, records, photographs, and sorted materials (except those repatriated under California

State Burial Law) will be curated at a repository meeting federal standards and in accordance with 36 CFR 79. There must be some assurance that the collection and related field records, catalogs and reports will be properly curated. Without proper curation there is no assurance that the value of information obtained will be retained in perpetuity. A qualified curation facility is one that meets the State Historic Preservation Office (SHPO) guidelines, such as the mentioned San Bernardino County Museum. However, there is no guarantee that the facility will be able to accept the collections once the artifacts are ready for curation. Consequently, if another facility is available that meets SHPO's guidelines, it would also be appropriate to allow curation to occur there. In any case, curation of any significant artifacts must be assured in order to find that the proposed project meets Section 30244 of the Coastal Act's requirement for reasonable mitigation. Therefore, as a condition of approval, artifacts of significant cultural value collected as a result of this project at the archaeological sites shall be curated at a qualified curation facility. If no qualified curation facility is available at the time the project is complete, an amendment to this permit shall be required to determine the appropriate curation process. The Commission finds, therefore, that as conditioned, the proposed project is consistent with Section 30244 of the Coastal Act.

#### **I. Coastal Resource Conflicts/Balancing**

The applicant argues that the proposed project will improve the drainage and erosion problems that are currently occurring within Hastings Canyon and impacting, through the deposition of sediment and runoff pollutants, the Ballona wetlands. Without the project, the applicant argues, the drainage and erosion problems will continue. Furthermore, the applicant is offering to dedicate as open space 15 off-site bluff face lots (1.9 acres) along Cabora Drive to mitigate any adverse impacts caused by the development of the access road. Therefore, the applicant argues, the Commission should consider balancing the impacts of the project with the benefits or environmental improvements that the project will have on the surrounding area and wetlands.

Section 30007.5 of the Coastal Act provides the Commission with the ability to resolve conflicts between Coastal Act policies. This section provides that:

*The legislature further finds and recognizes that conflicts may occur between one or more policies of the division. The Legislature therefore declares that in carrying out the provisions of this division such conflicts be resolved in a manner that on balance is the most protective of significant coastal resources. In this context, the Legislature declares that broader policies which, for example, serve to concentrate development in close proximity to urban and employment centers may be more protective, overall, than specific wildlife habitat and other similar resource policies.*

The mitigation measures that are proposed to improve water quality in Hastings Canyon and Ballona wetlands were imposed by the City as conditions of approval of the tract map for the applicant's proposed residential development outside of the coastal zone.

The City approved the tract map for that development with the proposed Street "A" as the designated access road for 85 of the 114 total lots. New roads, such as the proposed Street "A", convey runoff more quickly than land that remains pervious and vegetated, and vehicles using the road contribute pollutants to the runoff. Therefore, some of the proposed drainage mitigation measures would be required to mitigate for the adverse impacts on erosion and water quality from construction of the proposed road. The other proposed drainage improvements that specifically address runoff into Hastings Canyon and Ballona wetlands were required by the City as condition of approval of the Tentative Tract Map, and therefore they should not be considered a net benefit that will result from the project proposed in this application. In this situation, the applicant's pending proposal does not present a conflict between policies of the Coastal Act.

There are additional reasons why the Commission does not agree with the applicant's argument. Although the project is proposing to redirect the drainage from Hastings Canyon into a new storm drain system that will drain to the Lincoln Boulevard storm drain, staff can not speculate if this drainage improvement would be developed with or without the proposed residential subdivision. In fact, in previous discussions with the City regarding the development of the lots along Veragua Drive (west of the proposed development site), the City indicated that it was their intent to develop a future program of storm water control and purification for the area to protect the wetlands. Based on these discussions, all coastal development permits that are approved along Veragua Drive have a special condition that requires the applicant to record an agreement with the City that provides that the applicant participate on a fair share basis to pay any fees or assessments to finance projects which would improve drainage, filter runoff, or improve the water quality of the Ballona Wetlands. The drainage improvements include the Hastings canyon stormdrain.

To further mitigate the impacts of the road, the applicant is proposing, as part of the development proposal, to retire the development potential of 15 bluff face off-site residential lots, through a recorded open space deed restriction. The 15 lots are located west of the development site, immediately south (upslope) of Cabora Drive. The 87-100 foot deep lots extend from Cabora Drive, upslope to approximately the middle of the 140-foot bluff face. The upper half of the bluff face consists of 16 single-family lots. Eleven of these upper bluff face lots are developed with multiple-story single-family residences that cascade down the bluff face. The remaining five lots are vacant.

Access to the lots are via Cabora Drive, which is a dedicated public road that extends from Lincoln Boulevard, located east of the lots, and to Falmouth Avenue, located west of the lots. Cabora Drive is currently used as a City utility access road and is not opened to the public. In addition to the 15 lots owned by the applicant, there are approximately 21 additional lots, under separate ownership, located on the north side (downslope) of Cabora Drive.

The applicant argues that by offering to retire these 15 lots from future development, the area (1.9 acres) will be preserved as open space, reducing any potential impacts that development of the lots and necessary improvements to Cabora Drive will have on the bluff and adjacent Ballona wetlands.

Although the 1.9 acres could be preserved as open space through the applicants' offer, there has been no evidence submitted at this time, regarding the development potential of the lots along Cabora Drive. As stated, these 15 lots, along with other vacant lots along Cabora Drive, were created in the 1930's, and at this time, not one of the lots in this area have been developed, nor does the City have plans on improving Cabora Drive to provide access to the lots.

Furthermore, these 15 lots are located below a tier of lots that are developed with residences that cascade halfway down the bluff face. Because of the adjacent development, the scenic value of this bluff area has been diminished. Therefore, the mitigation value of these 15 lots is not equivalent to the value of the undeveloped and scenic bluffs along the proposed project site. Nor does the proposal to maintain the 15 lots as open space as mitigation comply with the Coastal Act requirement to minimize landform alteration on the project site itself. As explained above, landform alteration and visual impacts can be eliminated by providing access to the proposed residences by extending existing streets and, if necessary, reducing the project size or incorporating other mitigation measures to prevent significant adverse impacts on traffic on existing streets.

Therefore, in the absence of the proposed development within the Coastal Zone and mitigation, it is possible that the 15 lots being offered as open space by the applicant will remain undeveloped and the stormdrain and runoff improvements would eventually be constructed without the proposed development of Street "A".

As stated above it does not appear that the applicant is proposing to implement measures to improve water quality that should be considered to provide a net benefit as part of the project that is before the Commission, since those measures are required to mitigate for the impacts of the development proposed in this application and/or were required as conditions of the City's approval of the applicant's proposed residential development outside the coastal zone. However, even if the applicant is proposing to implement measures to improve water quality that exceed the required mitigation, approval of Street "A" is not warranted under the balancing provisions of the Coastal Act.

As discussed above, the landform alteration and visual impacts due to the proposed Street "A" are not consistent with Section 30251 of the Coastal Act. However, the drainage improvements proposed as part of the project are consistent with Section 30231 of the Coastal Act because they would improve water quality.

## a) Conflict

In order for the Commission to utilize the conflict resolution provision of Section 30007.5, the Commission must first establish that there is a substantial conflict between two statutory directives contained in Chapter 3 of the Coastal Act. The fact that a project is consistent with one policy of Chapter 3 and inconsistent with another policy does not necessarily result in a conflict.

In this case, the proposed project is inconsistent with the landform alteration and visual impact policies of the Coastal Act because the proposed construction of Street "A" will substantially alter a prominent bluff, will have adverse visual impacts on a scenic area and will require substantial grading. Section 30251 requires that projects minimize landform alteration and avoid adverse visual impacts on coastal areas. As discussed above, the proposed construction of Street "A" is not consistent with these requirements. Therefore, denial of Street "A" will serve to prevent substantial landform alteration and adverse visual impacts to a scenic coastal area.

However, the applicant argues that if Street "A" is not constructed and the proposed development can not be developed then the drainage improvements will also not occur. The Commission does not agree, since there is no direct correlation between construction of Street "A" and the proposed drainage improvements. Construction of Street "A" does not result in the drainage improvements. Rather, the water quality improvements will not occur without the proposed project, as currently designed, since the current design is dependent on Street "A" for access.

If the Commission does not approve construction of Street "A", this means that the applicant will be required to redesign the proposed residential development outside of the coastal zone to provide alternative access routes using existing roads located to the south. The proposed drainage improvements could be part of any redesigned project for the site. Since the City required the drainage improvements as a condition of approval of the residential project, it is likely that the City would continue to require those improvements if the project is redesigned. Such a redesigned project could provide the drainage improvements but also be modified so that access to the residential development is provided by alternative access routes that will have less adverse impact on coastal resources than the proposed Street "A". Approximately 32.74 acres, or 73% of the applicant's property, is outside of the Coastal Zone and not located on the bluff, which provides the applicant adequate area for design alternatives. In addition, the Commission notes, as discussed above, even if the applicant's residential development does not proceed, it is possible that the City will construct the drainage improvements to improve water quality in Hastings Canyon and Ballona wetlands. This further indicates that this project does not involve a conflict between policies of the Coastal Act.

**J. Local Coastal Program**

(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

In November 1986, the Commission certified, with suggested modifications, the land use plan portion of the Playa del Rey segment of the City of Los Angeles' Local Coastal Program. The certified LUP contains policies to guide the types, locations and intensity of future development in the San Pedro coastal zone. Among these policies are those specified in the preceding section regarding public access, visual resources, and geology. In the certified LUP the proposed project site is designated for residential development. The proposed development is consistent with the policies of the certified LUP. As proposed the project will not adversely impact coastal resources or access. The Commission, therefore, finds that the proposed project will be consistent with the Chapter 3 policies of the Coastal Act and will not prejudice the ability of the City to prepare a Local Coastal Program implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

**K. California Environmental Quality Act**

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment.

As conditioned, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.